

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

LENA MARIE LINDBERG,

Plaintiff,

v.

Case No. 6:21-cv-1417-RBD-GJK

KEVIN OAKS, Police Officer, in official capacity; **JOE PINSKER**, Police Officer, in official capacity; **JAMES ADAMS**, Detective, in official capacity; **RALPH GARCIA**, Commander, in official capacity; **SHADRICK CARTER**, Sergeant, in official capacity; **WILL NEWMAN**, Police Officer, in official capacity; **LISA GERMAN**, Victims Advocate, in official capacity; **JERROD GERWIG**, Police Officer, in official capacity; and **JOHN BARBERI**, Sergeant, in official capacity,

Defendants.

REPORT AND RECOMMENDATION

This cause came on for consideration without oral argument on the following motion:

MOTION: APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Doc. No. 8)

FILED: October 1, 2021

THEREON it is RECOMMENDED that the motion be DENIED and that the amended complaint be DISMISSED WITH PREJUDICE.

On August 27, 2021, pro se plaintiff Lena Marie Lindberg filed a complaint listing numerous defendants. Doc. No. 1. Also on August 27, 2021, Plaintiff filed an application to proceed *in forma pauperis* (the “Motion”). Doc. No. 2. On August 31, 2021, the undersigned issued a report and recommendation recommending that the Motion be denied and that the complaint be dismissed without prejudice. Doc. No. 3. On September 17, 2021, the Court adopted the report and recommendation and directed Plaintiff to file an amended complaint and an amended motion to proceed *in forma pauperis*. Doc. No. 6. On October 1, 2021, Plaintiff filed an amended complaint and amended motion to proceed *in forma pauperis* (the “Amended Motion”). Doc. Nos. 7, 8.

On October 26, 2021, the Court entered an Order finding that Plaintiff’s pleadings are unintelligible and that she made inappropriate filings. Doc. No. 17. The Court ordered Plaintiff’s future filings to be reviewed by the senior

Magistrate Judge in the Orlando Division to determine whether they have “arguable merit, that is, a material basis in law and fact and whether [they are] proper under the Federal Rules of Civil Procedure and the Local Rules.” *Id.* at 2. If the filings have “no arguable merit or [are] abusive, frivolous, scandalous, or duplicative, the Magistrate Judge should enter an order so finding, in which event the complaint, pleading, or filing will not be filed with the Court.” *Id.* at 3. Such filings will be returned to Plaintiff. *Id.* “Upon a finding that a tendered complaint, pleading, or filing lacks arguable merit or is abusive, frivolous, or duplicative, Plaintiff will be subject to a monetary sanction in the amount of \$200.00 per instance and such other sanctions as the Court deems appropriate.” *Id.* at 3-4. The U.S. Marshal was directed to serve a copy of the Order on Plaintiff on or before November 3, 2021, and file a return of service. *Id.* at 4.

As the Court found in the Order, the amended complaint is unintelligible. Doc. No. 7. It violates Federal Rule of Civil Procedure 8, as it does not contain a short and plain statement that establishes a right to relief. The allegations involve a dizzying array of legal claims and defendants, not to mention being fanciful and delusional. As the amended complaint is patently frivolous, fails to comply with Rule 8, and has no arguable merit, it is recommended that it be dismissed with prejudice.

Based on the forgoing, it is **RECOMMENDED** that the Court:

1. **DENY** the Amended Motion (Doc. No. 8); and
2. **DISMISS** the amended complaint with prejudice.

NOTICE TO PARTIES

A party has fourteen days from the date the Report and Recommendation is served to serve and file written objections to the Report and Recommendation's factual findings and legal conclusions. Failure to serve written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. 11th Cir. R. 3-1.

RECOMMENDED in Orlando, Florida, on October 28, 2021.



GREGORY J. KELLY
UNITED STATES MAGISTRATE JUDGE

Copies to:

Presiding District Judge
Unrepresented party